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Final AG for Prog  
Application 1.  
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STATE OF DELAWARE

ATTORNEY GENERAL'S STATEMENT FOR FINAL  
AUTHORIZATION FOR CHANGES TO THE FEDERAL  
RCRA PROGRAM FROM JANUARY 1983 THROUGH DECEMBER 1994<sup>1</sup>

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Delaware provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Department of Natural Resources and Environmental Control. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now, as specified below. These authorities and this certification supplement the previously certified authorities described in my predecessor's certification of July 26, 1983.

The following is a list of each element for which the State of Delaware seeks authorization. Under each element I have specified state statutes and regulatory citations which correspond to the cited federal law and regulations.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (1) Chlorinated aliphatic hydrocarbons, 40 CFR 261.31, as amended February 10, 1984 [49 FR 5308], Revision Checklist 4.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.31, as adopted 2/5/85 in accordance with Revision Checklist 4; 7 Del. C. §6305(a)(1).

- (2) Warfarin and zinc phosphide listing, 40 CFR 261.33(e) and (f), as amended May 10, 1984 [49 FR 19923], Revision Checklist 7 as amended 8/29/88.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.33, as adopted 8/29/88 in accordance with Revision Checklist 7; 7 Del. C. §6305(a)(1).

- (3) TDI, DNT and TDA wastes, 40 CFR 261.32 and 261.33(f), and Part 261 Appendices III, VII and VIII as amended October 23, 1985 [50 FR 42936], Revision Checklist 18.

<sup>1</sup> The State is seeking authorization for those specific authorities indicated in Attachment 1 of the Program Description included in Delaware's Hazardous Waste Management Program Revision Application dated 1995.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§261.32 and 261.33, and Part 261 Appendices III, VII and VIII as adopted 5/8/86 in accordance with Revision Checklist 18; 7 Del. C. §6305(a)(1).

- (4) Spent solvents, 40 CFR 261.31, as amended December 31, 1985 [50 FR 53319] and January 21, 1986 [51 FR 2702], Revision Checklist 20.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.31 as adopted 2/5/85 and amended 11/21/85, 8/29/88 in accordance with Revision Checklist 20; 7 Del. C. §6305(a)(1).

- (5) EDB wastes, 40 CFR 261.32 and Part 261 Appendices II, III and VIII, as amended February 13, 1986 [51, FR 5330], Revision Checklist 21.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.32 and Part 261 Appendices II, III and VIII, as adopted 8/29/88 in accordance with Revision Checklist 21; 7 Del. C. §6305(a)(1).

- (6) Four spent solvents, 40 CFR 261.31 and 261.33(f) and Part 261 Appendices III, VII and VIII, as amended February 25, 1986 [51 FR 6541], Revision Checklist 22.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§261.31 and 261.33(f) and Part 261 Appendices III, VII and VIII, as adopted 8/29/88 in accordance with Revision Checklist 22; 7 Del. C. §6305(a)(1).

- (7) Listing of spent pickle liquor from steel finishing operations, 40 CFR 261.32, as amended May 28, 1986 [51 FR 19320] and September 22, 1986 [51 FR 33612], Revision Checklist 26.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW 261.32 as adopted in accordance with Revision Checklist 26; 7 Del. C. §6305(a).

- (8) Listing of commercial chemical products and Appendix VIII constituents, 40 CFR 261.33 and Appendix VIII, as amended August 6, 1986 [51 FR 28296], Revision Checklist 29; as amended July 10, 1987 [52 FR 26012], Revision Checklist 41; and as amended April 22, 1988 [53 FR 13382], Revision Checklist 46.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.33 and Appendix VIII as adopted 8/29/88 and 8/10/90 in accordance with Revision Checklists 29, 41 and 46; 7 Del. C. §6305(a)(1).

- (9) EBDC wastes, 40 CFR 261.32 and Part 261 Appendices III and VII, as amended on October 24, 1986 [51 FR 37725], Revision Checklist 33.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.32 and Part 261 Appendices III and VII, as adopted 8/29/88 in accordance with Revision Checklist 33; 7 Del. C. §6305(a)(1).

- (10) Listing of spent potliners from aluminum reduction (K088), 40 CFR 261.32 and Part 261 Appendix VII, as amended September 13, 1988 [52 FR 35412], Checklist 53.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.32, Part 261 Appendix VII, as adopted 8/10/90 in accordance with Revision Checklist 53; 7 Del. C. §6305(a)(1).

- (11) Generic delisting of iron dextran (CAS No. 9004-66-4), 40 CFR 261.33(f) and Part 261 Appendix VIII, as amended October 31, 1988 [53 FR 43878], Revision Checklist 56.

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.33, 261 Appendix VIII as adopted 8/10/90 in accordance with Revision Checklist 56; 7 Del. C. §6305(a)(1).

- (12) Generic delisting of strontium sulfide (CAS No. 1314-96-1), 40 CFR 261.33(e) and Appendix VIII, as amended October 31, 1988 [53 FR 43881], Revision Checklist 57.

[Federal Authority: RCRA §3001(b).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.33, Part 261 Appendix VIII as adopted 8/10/90 in accordance with Revision Checklist 57; 7 Del. C. §6305(a)(1).

- (13) Reserved  
(14) Reserved  
(15) Reserved  
(16) Reserved

(17) Reserved

(18) Listing of two wastes (F037 and F038) generated in the separation of oil/water/solids from petroleum refinery process wastewaters and oily cooling wastewaters, 40 CFR 261.31 and Part 261 Appendix VII, as amended November 2, 1990 [55 FR 46354] and December 17, 1990 [55 FR 51707], Revision Checklist 81.

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

DRGHW §261.31 and Part 261 Appendix VII, as adopted 11/19/93 in accordance with Checklist 81; 7 Del. C. §6305(a).

(19) Reserved

(20) Reserved

(21) Redefinition of F037 and F038 listings to exclude 1) sludges from non-contact once-through cooling waters from both listings and 2) floats generated in aggressive biological treatment units from the F038 listing, 40 CFR 261.31 as amended May 13, 1991 [56 FR 21955], Revision Checklist 89.

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

DRGHW §261.31 as adopted 7/26/94 in accordance with Checklist 89; 7 Del. C. §6305(a).

B. State statutes and regulations define hazardous waste so as to control the generation, transportation, treatment, storage and disposal of hazardous waste produced by small quantity generators of between 100 and 1000 kilograms/month as indicated in Revision Checklist 23 (which supersedes prior amendments by Revision Checklist 17 A) and Revision Checklist 47 (providing technical corrections to Checklist 23). State statutes and regulations also require small quantity generators to certify good faith efforts to minimize waste generation and to select the best available and affordable treatment, storage or disposal alternatives, 40 CFR 262 as amended October 1, 1986 [51 FR 35190], Revision Checklist 32 (see Item IX below).

[Federal Authority: RCRA §3001(d); 40 CFR Parts 260-263 and 270 as amended March 24, 1986 (51 FR 10146), October 1, 1986 (51 FR 35190), and July 19, 1988 (53 FR 27162).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW sections 260-263 and 122 as adopted 8/29/88 and amended 8/10/90 in accordance with Revision Checklists 23, 32 and 47; 7 Del. C. §6305(a) and 6306.

C. State statutes and regulations provide authority to delist hazardous waste as indicated in Revision Checklist 17 B.

- (1) State statutes and regulations require that before deciding to delist a waste, the State must consider whether any listing factor (including additional constituents) other than those for which the waste was listed would cause the waste to be hazardous.

[Federal Authority: RCRA §3001(f)(1); 40 CFR 260.22 as amended July 15, 1985 (50 FR 28702) and June 27, 1989 (54 FR 27114).]

- (2) State statutes and regulations require that there be no new temporary delistings without prior notice and comment. All temporary delistings received before November 18, 1984 without the opportunity for public comment and full consideration of such comment, shall lapse if not made final by November 8, 1986.

[Federal Authority: RCRA §3001(f)(2); 40 CFR 260.20(d) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

Delaware does not have a delisting mechanism per DRGHW Part 260 Subpart C - Rulemaking Petitions.

D. State statutes and regulations define hazardous waste so as to exclude waste pickle liquor sludge generated by lime stabilization, but only to the extent that such waste is excluded by 40 CFR 261.3(c)(2), as indicated in Revision Checklist 8.

[Federal Authority: RCRA §3001; 40 CFR 261.3(c) as amended June 5, 1984 (49 FR 23284).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General

The State has chosen not to adopt Revision Checklist 8.

E. State statutes and regulations define hazardous waste so as to not exclude household waste other than those household wastes excluded in 40 CFR 261.4(b)(1), as indicated in Revision Checklists 9 and 17 C.

[Federal Authority: RCRA §3001; 40 CFR 261.4(b)(1) as amended November 13, 1984 (49 FR 44980) and July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.4(b)(1) as adopted 5/8/86 in accordance with Revision Checklists 9 and 17 C; 7 Del. C. §6305(a).

F. State statutes and regulations incorporate the most recent edition and updates to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846) as indicated in Revision Checklists 11 and 35.

[Federal Authority: RCRA §§2002, 3001; 40 CFR §§260.11(a), 260.21 and 270.6(a) as amended December 4, 1984 (49 FR 47390) and March 16, 1987 (52 FR 8072).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General

DRGHW §§260.11(a), 122.6(a) as adopted 5/8/86, 8/29/88 in accordance with Revision Checklists 11 and 35; 7 Del. C. §6305(a), §6306(d).

*Note: Section 261.21 was not adopted by the State.*

G. State statutes and regulations define solid wastes to include the hazardous components of radioactive mixed wastes, July 3, 1986 [51 FR 24504]. See State Program Advisory (SPA) #2.

[Federal Authority: RCRA §§1004(27) and 3001(b).]

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §261.3; 7 Del. C. §§6302, and 6305(a).

Under Delaware law and Federal law "hazardous waste" is defined as a subset of "solid waste". While the radioactive component of mixed waste cannot be regulated under RCRA or the State program, the Delaware Attorney General has determined that the State's interpretation of its definition of "solid waste" is legally consistent with that of EPA's interpretation of Section 1004(27). Therefore, the hazardous component of mixed waste is not affected by the exemption, and that there is no limitation on the State's ability or authority to regulate the hazardous component of mixed waste.

H. State statutes and regulations to exempt (with certain limitations) waste samples used in small scale treatability studies from Subtitle C regulation as indicated in Revision Checklist 49.

[Federal Authority: RCRA §3001; 40 CFR 260.10 and 261.4(e)&(f) as amended July 19, 1988 (53 FR 27290).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General

DRGHW §§260.10 and 261.4(e) and (f) as adopted 8/10/90 in accordance with Revision Checklist 49; 7 Del. C. §6305(a), §6305(c).

I. State statutes and regulations exclude from the mining waste exemption the six wastes listed at 40 CFR 261.4(b)(7)(i) through 261.4(b)(7)(vi), as indicated in Revision Checklist 53.



[Federal Authority: RCRA §3001(b); 40 CFR 261.4(b)(7) and 261.32 as amended September 13, 1988 (53 FR 35412).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §261.32 and Part 261 Appendix VII as adopted 8/10/90 in accordance with Revision Checklist 53; 7 Del. C. §6305(a)(1).

J. Reserved

K. Reserved

L. State statutes and regulations revise the existing toxicity characteristic by replacing the Extraction Procedure (EP) leach test with the Toxicity Characteristic Leaching Procedure (TCLP) for identifying wastes that are defined as hazardous and subject to regulation under Subtitle C of RCRA as indicated in Revision Checklist 74. State statutes and regulations also provide for the addition of 25 organic chemicals and their regulatory levels to the list of toxic constituents of concern as indicated in Revision Checklist 74.

Federal Authority: RCRA §§1006, 2002(a), 3001, 3002, 3004, 3005 and 3006; 40 CFR Parts 261, 264, 265 and 268 as amended March 29, 1990 (55 FR 11798), and June 29, 1990 (55 FR 26986).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW Parts 261, 264, 265, and 268 as adopted 6/19/92 in accordance with Checklist 74; 7 Del. C. §6305(a), 6306 and 6307.

M. Reserved

N. Reserved

O. State statutes and regulations extend until January 25, 1993, the compliance date for the Toxicity Characteristic requirements for produced ground water from free phase hydrocarbon recovery operations at certain petroleum industry sites (refineries, marketing terminals, and bulk plants) as indicated in Revision Checklist 80. The extension for infiltration galleries at such operations ends on October 2, 1991.

Federal Authority: 5 U.S.C. §§553 and 705; RCRA §3001; 40 CFR 261.4(b)(11) as amended October 5, 1990 (55 FR 40834), February 1, 1991 (56 FR 3978) and April 2, 1991 (56 FR 13406).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

The State has chosen not to adopt Revision Checklist 80. Underground injection of hazardous waste is prohibited in the State of Delaware.



P. State statutes and regulations include definitions of oil/water/solids and aggressive biological treatment units and a statement concerning the point of generation for F037 and F038 sludges as indicated on Revision Checklist 81.

Federal Authority: RCRA §3001; 40 CFR 261.31(b), as amended November 2, 1990 (55 FR 46354) and December 17, 1990 (55 FR 51707).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §261.31 and Part 261 Appendix VII, as adopted 11/19/93 in accordance with Checklist 81; 7 Del. C. §6305(a).

Q. Reserved

R. Reserved

S. State statutes and regulations which exclude from being hazardous used chlorofluorocarbon (CFC) refrigerants from totally enclosed transfer equipment (including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems) that use chlorofluorocarbons as the heat transfer fluid in the refrigeration cycle, provided the refrigerant is reclaimed for further use as indicated in Revision Checklist 84.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(12) as amended February 13, 1991 (56 FR 5910).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §261.4(b)(12), as adopted 7/26/94 in accordance with Checklist 84; 7 Del. C. §6305(a).

## II. DEFINITION OF SOLID WASTE

A. State statutes and regulations define hazardous waste and impose management standards so as to control all the hazardous waste controlled under 40 CFR §§261, 264, 265 and 266 as indicated in Revision Checklists 13 and 37.

[Federal Authority: RCRA §§3001, 3004; 40 CFR Parts 260, 261, 264, 265, and 266 as amended January 4, 1985 (50 FR 614), April 11, 1985 (50 FR 14216), August 20, 1985 (50 FR 33541) and June 5, 1987 (52 FR 21306).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General

DRGHW, Parts 260, 261, 264, 265, 266 as adopted 11/21/85 and amended 8/29/88 in accordance with Revision Checklists 13 and 37; 7 Del. C. §6305(a).

### III. MANAGEMENT OF DIOXIN WASTES

A. State statutes and regulations contain the following requirements regarding dioxin wastes as indicated in Revision Checklist 14:

- (1) Dioxin wastes are listed and otherwise identified as hazardous wastes so as to encompass all such wastes controlled under 40 CFR 261.5(e), 261.7(b), 261.30(d), 261.31, and 261.33(f) and Part 261 Appendix X.
- (2) Special management and permitting standards for facilities managing dioxin wastes and prohibitions applicable to permitted and interim status facilities, as provided in 40 CFR Parts 264, 265, and 270.

[Federal Authority: §§3001, 3004; 40 CFR 261, 264, 265 and 270 as amended January 14, 1985 (50 FR 1978).]

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General.

DRGHW Parts 261 and Appendix X to 261, 264, 265, and 122 as adopted 11/21/85 in accordance with Revision Checklist 14; 7 Del. C. §§6305(a) and 6307.

### IV. SATELLITE ACCUMULATION

A. State statutes and regulations allow generators to accumulate at the site of generation, without a permit or interim status, as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste provided that the generator complies with the requirements specified in §262.34(c) as indicated in Revision Checklist 12.

[Federal Authority: RCRA §§2002, 3002, 3004, 3005; 40 CFR 262.34(c) as amended December 20, 1984 (49 FR 49571).]

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General.

DRGHW §262.34(c) as adopted 8/29/88 in accordance with Revision Checklist 12; 7 Del. C. §§6305(a) and 6306. Delaware chooses to be more stringent than federal regulation by prohibiting the accumulation of hazardous or acutely hazardous waste, in the amounts specified in 262.34(c), at the point of generation. The generator must immediately move the filled container of hazardous or acutely hazardous waste from the process area where the waste was generated to the accumulation area.

### V. APPLICABILITY OF INTERIM STATUS STANDARDS

A. State statutes and regulations contain the following requirements regarding interim status standards as indicated in Revision Checklists 3 and 10:

- (1) Interim status standards apply to facilities identified in 40 CFR §265.1(b).

[Federal Authority: RCRA §3004; 40 CFR 265 as amended November 22, 1983 (48 FR 52718) and November 21, 1984 (49 FR 46095).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW §265.1(b) as adopted 11/21/85 in accordance with Revision Checklists 3 and 10; 7 Del. C. §§6305(a), and §6307(g).

## VI. PAINT FILTER TEST

A. State statutes and regulations require the use of a paint filter test to determine the absence or presence of free liquids in either a containerized or bulk waste as indicated in Revision Checklists 16, 17 F and 25.

[Federal Authority: RCRA §§3004, 3005; 40 CFR Parts 260, 264, 265, and 270 as amended April 30, 1985 (50 FR 18370), July 15, 1985 (50 FR 28702) and May 28, 1986 (51 FR 19176).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW §§264.13(b)(6), 264.73(b)(3), 264.314(c), 265.13(b)(6), 265.73(b)(3), 265.314(d) as adopted 5/8/86 and 8/29/88 in accordance with Revision Checklists 16, 17F and 25; 7 Del. C. §§6305(a) and 6306(d).

## VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

A. State statutes and regulations require generators to use the national uniform manifest as indicated in Revision Checklists 5 and 32.

[Federal Authority: RCRA §§2002, 3002, 3003; 40 CFR Parts 260 and 262 as amended March 20, 1984 (49 FR 10490) and October 1, 1986 (51 FR 35190).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW §260.10, 262.20(a), 262.21(a) and (b), 262.50(b)(3) and (4), 262.50(d) and (e), Appendix II as adopted 9/20/84 and amended 8/29/88 in accordance with Revision Checklists 5 and 32; 7 Del. C. §§6305(a) and 6306.

B. State statutes and regulations require that generators, of between 100 and 1000 kg/mo of hazardous waste, file an exception report in those instances where the generator does not receive confirmation of delivery of his hazardous waste to the designated facility as indicated in Revision Checklist 42.

[Federal Authority: RCRA §§3001(d) and 3002(a)(5); 40 CFR Parts 262.42 and 262.44 as amended September 23, 1987 (52 FR 35894).]

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General.

The State has chosen not to adopt Revision Checklist 42. The State became more stringent with its requirements when Checklists 23 and 47 were adopted 5/8/86 and 8/29/88; 7 Del. C. §6305(a).

C. State statutes and regulations require that the following be recorded, as it becomes available, and maintained in the operating record, until facility closure, as indicated in Revision Checklist 45: monitoring, testing or analytical data, corrective action where required by Subpart F and §§264.226, 264.253, 264.254, 264.276, 264.278, 264.280, 264.303, 264.309, 264.347, and 264.602.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.73(b) as amended December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §264.73(b) as adopted 8/10/90 in accordance with Revision Checklist 45; 7 Del. C. §§6305(a) and 6304.

D. State statutes and regulations include a burden disclosure statement with each uniform manifest form and renew the use of this form as indicated in Revision Checklist 58.

Federal; Authority: RCRA §§2002, 3002, and 3003; 40 CFR 262.20 and Part 262 Appendix as amended November 8, 1988 (53 FR 45089).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §262.20, and Part 262 Appendix II as adopted 8/10/90 in accordance with Checklist 58; 7 Del. C. §§6305(a) and 6306.

#### VIII. BIENNIAL REPORT

A. State statutes and regulations contain the following reporting requirements as indicated in Revision Checklists 1 and 30.

- (1) The biennial report contains the information indicated in 40 CFR 262.41(a), 264.75 and 265.75.
- (2) Facilities must submit groundwater monitoring data annually to the State Director as indicated in 40 CFR 265.94.

[Federal Authority: RCRA §§3002, 3004; 40 CFR 262, 264 and 265 as amended January 28, 1983 (48 FR 3977) and August 8, 1986 (51 FR 28566).]

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General.

DRGHW §§262.41(a), 264.75 and 265.75 as adopted 3/21/84 and 8/29/88 in accordance with Revision Checklists 1 and 30; 7 Del. C. §§6304 and 6305(a). Delaware is more stringent than the Federal program by not adopting the optional requirements in Checklist 1 and requiring reports to be submitted annually.

## **IX. WASTE MINIMIZATION**

A. State statutes and regulations contain the following requirements regarding waste minimization as indicated in Revision Checklists 17 D, 30 and 32 (see Item I B above).

- (1) Generators must submit report and manifest certifications regarding efforts taken to minimize the amounts and toxicity of wastes.

[Federal Authority: RCRA §3002(a)(6), (b); 40 CFR 262.41, 264.75 and 265.75 as amended July 15, 1985 (50 FR 28702), August 8, 1986 (51 FR 28556) and October 1, 1986 (51 FR 35190).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§262.41, Appendix II to §262, 264.75, and 265.75 as adopted 11/21/85, 5/8/86, and 8/29/88 in accordance with Revision Checklists 17D, 30 and 32; 7 Del. C. §§6305(a)(6), (a)(10), (a)(13) and 6306.

- (2) RCRA permits for the treatment, storage, or disposal of hazardous waste on the premises where the waste was generated must contain a certification by the permittee regarding efforts taken to minimize the amount and toxicity of the generated wastes.

[Federal Authority: RCRA §3005(h); 40 CFR 264.70, 264.73 and 270.30(j)(2) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW Appendix II to §262, §§264.70, 264.73(b), and 270.30(j) as adopted 11/21/85 and amended 5/8/86, 8/29/88 in accordance with Revision Checklists 17D, 30, and 32; 7 Del. C. §§6305(a)(6), (a)(10), (a)(13) and 6306.

## **X. LIQUIDS IN LANDFILLS**

A. State statutes and regulations contain the following requirements regarding liquids in landfills indicated in Revision Checklists 17F and 25.

- (1) Effective May 8, 1985, there is a ban on the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids in any landfill pursuant to 40 CFR 264.314 and 265.314 as amended July 15, 1985 and May 28, 1986.
- (2) Effective November 8, 1985, there is a ban on the placement of non-hazardous liquids in landfills unless the owner or operator satisfies the criteria set forth in 40 CFR 264.314(e), 265.314(e), as amended July 15, 1985 and May 28, 1986.
- (3) For bulk or non-containerized liquid wastes or wastes containing free liquids they may be placed in a landfill prior to May 8, 1985, only if the requirements of 40 CFR 264.314(a) and 265.314(a) are met.

[Federal Authority: §3004(c); 40 CFR 264.314, 265.314 and 270.21(h) as amended July 15, 1985 (50 FR 28702) and May 28, 1986 (51 FR 19176).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.314, 265.314, 122.21(h) as adopted 5/8/86 and amended 8/29/88 in accordance with Revision Checklists 17F and 25; 7 Del. C. §6305(a).

#### **XI. GROUND-WATER MONITORING**

A. State statutes and regulations provide that the §3004 groundwater monitoring requirements applicable to surface impoundments, waste piles, land treatment units and landfills shall apply whether or not such units are located above the seasonal high water table, have two liners and a leachate collection system or have liners that are periodically inspected, as indicated in Revision Checklist 17I.

[Federal Authority: RCRA §3004(p); 40 CFR 264.222, 264.252, 264.253, and 264.302 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.222, 264.252, 264.253, and 264.302 as adopted in accordance with Revision Checklist 17I, adopted 8/29/88; 7 Del. C. §§6305(a).

B. State statutes and regulations may allow variances from the ground-water monitoring requirements as provided in §3004(p). However, those variances must be restricted as provided in RCRA §3004(p) as indicated in Revision Checklist 17I.

[Federal Authority: RCRA §3004(p); 40 CFR 264.90(b) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.



DRGHW §264.90(b) as adopted 8/29/88 in accordance with Revision Checklist 17I; 7 Del. C. §6305(a).

C. State statutes and regulations provide that with regard to ground-water monitoring, all land based hazardous waste treatment, storage, and disposal facilities analyze for a specified core list (Part 264, Appendix IX) of chemicals plus those chemicals specified by the Regional Administrator on a site-specific basis as indicated in Revision Checklist 40.

[Federal Authority: RCRA §§1006, 2002(a), 3001, 3004, and 3005; 40 CFR Parts 264.98, 264.99, Appendix IX of 264, and 270.14 as amended July 9, 1987 (52 FR 25942).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.98, 264.99(f), Appendix IX of 264 and 122.14 as adopted 8/29/88 in accordance with Revision Checklist 40; 7 Del. C. §6305(a).

D. State statutes and regulations specify statistical methods, sampling procedures, and performance standards that can be used in groundwater monitoring procedures to detect groundwater contamination at permitted hazardous waste facilities as indicated in Revision Checklist 55.

[Federal Authority: RCRA §§1006, 2002(a), 3004 and 3005; 40 CFR 264.91, 264.92, 264.97, 264.98 and 264.99 as amended October 11, 1988 (53 FR 39720).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.91, 264.92, 264.97, 264.98 and 264.99 as adopted 8/10/90 in accordance with Revision Checklist 55; 7 Del. C. §§6305(a) and 6307.

E. State statutes and regulations provide for additional information and engineering feasibility plan requirements regarding groundwater contamination detected at the time of Part B permit application as indicated in Revision Checklist 38.

Federal Authority: RCRA §§3004 and 3005; 40 CFR 270.14 as amended June 22, 1987 (52 FR 23447) and September 9, 1987 (52 FR 33936).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §122.14 as adopted 8/29/88 in accordance with Checklist 38; 7 Del. C. §§6305(a) and 6304.

F. State statutes and regulations require that miscellaneous units comply with regulations (Subpart F) regarding releases from solid waste management units when necessary to comply with §§264.601 through 264.603 as indicated in Revision Checklist 45.

Federal Authority: RCRA §3004(u); 40 CFR 264.90(d) as amended December 10, 1987 (52 FR 46946).



Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

DRGHW §264.90(d) as adopted 8/10/90 in accordance with Checklist 45; 7 Del. C. §6305(a)(3).

**XII. BURNING AND BLENDING OF HAZARDOUS WASTES**

A. State statutes and regulations provide the following requirements:

- (1) The burning of fuel containing hazardous waste in a cement kiln is prohibited as specified in 40 CFR 266.31 and Revision Checklist 17J.

[Federal Authority: RCRA §3004(q); 40 CFR 266.31 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §266.31 as adopted 11/21/85 and amended 8/29/88 in accordance with Revision Checklist 17J (266.31 was also amended in accordance with Revision Checklist 19); 7 Del. C. §6305(a).

- (2) Fuels containing hazardous waste and all persons who produce, distribute and market fuel containing hazardous wastes must be regulated as indicated in Revision Checklists 17J, 17K, and 19.

[Federal Authority: RCRA §§3004(q)-(s); 40 CFR 261.31; 266.34 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§261.31 and 266.34 as adopted 11/21/85 and amended 8/29/88 in accordance with Revision Checklists 17J, 17K, and 19; 7 Del. C. §6305(a)(12).

B. State statutes and regulations providing exceptions to the burning and blending of hazardous waste as specified in §§3004(q)(2)(A) and 3004(r)(2) & (3).

[Federal Authority: RCRA §§3004(q)(2)(A) and 3004(r)(2) & (3).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

7 Del. C. §6305(a)(12).

### XIII. CORRECTIVE ACTION

Delaware, while adopting the Corrective Action regulations, is not seeking authorization at this time. The state will continue to work with EPA on the Corrective Action Program until such a time the state seeks and receives Corrective Action authority.

### XIV. HAZARDOUS WASTE EXPORTS

A. State statutes and regulations require generators and transporters of hazardous waste destined for export outside the United States to comply with standards equivalent to those as indicated in Revision Checklists 17R, 31, and 48 (with the latter providing technical corrections to Checklist 31).

[Federal Authority: RCRA §3017; 40 CFR 262.50 as amended July 15, 1985 (50 FR 28702), August 8, 1986 (51 FR 28664), and July 19, 1988 (53 FR 27164).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §262.50 as amended 5/8/86, 8/29/88 and 8/10/90 in accordance with Revision Checklists 17R, 31, and 48; 7 Del. C. §6305(a)(2), (a)(4), (a)(8), (a)(13) and 6306.

### XV. STANDARDS FOR FACILITIES\*

A. State statutes and regulations prohibit the land disposal of hazardous waste prohibited under 40 CFR Parts 264 and 265 as indicated in Revision Checklist 17 E. Land disposal includes, but is not limited to, placement in landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves. Deep injection well means a well used for the underground injection of hazardous wastes other than a well to which §7010(a) of RCRA applies.

\* This section contains all changes to the Federal RCRA program concerning facility standards except for those specifically related to groundwater monitoring. This latter group of facility standard changes are addressed by Section XI.

[Federal Authority: RCRA §§3004(b)-(q); 40 CFR 264.18, 265.18 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.18, 265.18 as adopted 5/8/86 in accordance with Revision Checklist 17E; 7 Del. C. §6305(a) and 6307.

B. Effective on November 8, 1984, State statutes and regulations prohibit the placement of any non-containerized or bulk liquid hazardous waste in any salt dome or salt bed formation any underground mine or cave except as provided in §264.18(c) and §265.18(c) as indicated in

Revision Checklist 17 E. Furthermore, State statutes and regulations prohibit the placement of any other hazardous waste in such formations until a permit is issued.

[Federal Authority: RCRA §3004(b); 40 CFR 264.18 and 265.18 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.18 and 265.18 as adopted 5/8/86 in accordance with Revision Checklist 17E; 7 Del. C. §6305(a).

C. State statutes and regulations prohibit the use of waste oil or other materials contaminated with hazardous wastes (except ignitable wastes) as a dust suppressant as indicated in Revision Checklist 17G.

[Federal Authority: RCRA §3004(1); 40 CFR 266.23 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §266.23 as adopted 8/29/88 in accordance with Revision Checklist 17G; 7 Del. C. §6305(a)(12).

D. State statutes and regulations require the permittee to take steps to minimize releases to the environment in accordance with 40 CFR Part 270.30(d) as indicated in Revision Checklist 2.

[Federal Authority: RCRA §3005(c); 40 CFR 270 as amended September 1, 1983 (48 FR 39622).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§122.11(a), (d) and 122.30(d) as adopted 3/21/84 in accordance with Revision Checklist 2; 7 Del. C. §§6305(a), and 6307.

E. State statutes and regulations require that closure and post-closure requirements and special requirements for containers apply to interim status landfills as indicated in Revision Checklist 15.

[Federal Authority: RCRA §3004; 40 CFR 265.310, 265.315 as amended April 23, 1985 (50 FR 16044).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§265.310 and 265.315 as adopted 11/21/85 in accordance with Revision Checklist 15; 7 Del. C. §§6305(a) and 6307.

F. State statutes and regulations require compliance with closure/post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklists 24, 36, and 45.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422), March 19, 1987 (52 FR 8704) and December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§260, 264, 265, and 122 as adopted 8/29/88 and 8/10/90 in accordance with Revision Checklists 24, 36, and 45; 7 Del. C. §6305(a) and 6307.

G. State statutes and regulations allow qualified companies that treat, store or dispose of hazardous waste to use a corporate guarantee to satisfy liability assurance requirements as indicated in Revision Checklists 27 and 43.

[Federal Authority: RCRA §§2002, 3004, and 3005; 40 CFR 264.147, 264.151, and 265.147 as amended July 11, 1986 (51 FR 25350) and November 18, 1987 (52 FR 44314).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.147, 264.151, and 265.147 as adopted 8/29/88 and 8/10/90 by Revision Checklists 27 and 43; 7 Del. C. §6305(a).

H. State statutes and regulations require companies that generate, treat or store hazardous waste in tanks to comply with tank standards equivalent to those indicated in Revision Checklists 28 and 52.

[Federal Authority: RCRA §§1006, 2002, 3001 - 3007, 3010, 3014, 3017 - 3019 and 7004; 40 CFR 260, 261, 262, 264, 265, and 270 as amended July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430) and September 2, 1988 (53 FR 34079).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW 260, 261, 262, 264, 265, and 122 as adopted 8/29/88 and 8/10/90 in accordance with Revision Checklists 28 and 52; 7 Del. C. §§6304, 6305(a)(4), 6306 and 6307.

I. State statutes and regulations require environmental performance standards; monitoring, testing, analytical data, inspection, response and reporting procedures; and post-closure care for miscellaneous units as indicated in Revision Checklist 45.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.600, 264.601, 264.602, and 264.603 as amended December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§264.600, 264.601, 264.602, and 264.603 as amended 8/10/90 in accordance with Revision Checklist 45; 7 Del. C. §§6304, 6305(a)(4), (a)(6), (a)(10), (a)(13) and 6307.

J. State statutes and regulations allow owners and operators of landfills, surface impoundments, or land treatment units, under limited circumstances, to remain open after the final receipt of hazardous wastes in order to receive non-hazardous wastes in that unit as indicated in Revision Checklist 64.

Federal Authority: RCRA §§1006, 2002(a), 3004, 3005 and 3006; 40 CFR 264.13, 264.112, 264.113, 264.142, 265.13, 265.112, 265.113, 265.142 and Appendix I to 270.42 as amended August 14, 1989 (54 FR 33376).

Citation of Laws and Regulations; Date of Enactment and Adoption  
Remarks of the Attorney General

The State has chosen not to adopt Revision Checklist 64.

#### XVI. REQUIREMENTS FOR PERMITS

A. State statutes and regulations allow a facility (1) to construct an approved TSCA facility for burning PCBs without first obtaining a RCRA permit and (2) to subsequently apply for a RCRA permit in accordance with Revision Checklist 17 M.

[Federal Authority: RCRA §3005(a); 40 CFR 270.10(f)(3) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.10(f) as adopted 5/8/86 in accordance with Revision Checklist 17M; 7 Del. C. §6305(a)(3).

B. State statutes and regulations require review of land disposal permits every five years and modification of such permits as necessary to assure compliance with the requirements in Parts 124, 260 through 266, and 270, as indicated in Revision Checklist 17 N.

[Federal Authority: RCRA §3005(c)(3); 40 CFR 270.41(a)(6), 270.50(d) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§122.41(a) and 122.50(d) as adopted 5/8/86 in accordance with Revision Checklist 17N; 7 Del. C. §6305(a)(3) and 6307.

C. State statutes and regulations require permits to contain any conditions necessary to protect human health and the environment in addition to any conditions required by regulations as indicated in Revision Checklist 17 O.

[Federal Authority: RCRA §3005(c)(3); 40 CFR 270.32(b) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.32 as adopted 5/8/86 in accordance with Revision Checklist 17 O; 7 Del. C. §6305(a)(2) through (4) and 6307.

D. State statutes and regulations require that:

- (1) For land disposal facilities granted interim status prior to 11/8/84, interim status terminates 11/8/85; unless a Part B application and certification of compliance with applicable groundwater monitoring and financial responsibility requirements are submitted by 11/8/85, as indicated in Revision Checklist 17P.

[Federal Authority: RCRA §3005(e); 40 CFR 270.73(c) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.73(c) as adopted 5/8/86 in accordance with Revision Checklist 17 P; 7 Del. C. §6305(a) and 6307.

- (2) For land disposal facilities in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit and which is granted interim status, interim status terminates 12 months after the date the facility first becomes subject to such permit requirement unless a Part B application and certification of compliance with applicable groundwater monitoring and financial responsibility requirements are submitted by that date as indicated in Revision Checklist 17P.

[Federal Authority: RCRA §3005(e); 40 CFR 270.73(d) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.73(d) as adopted 5/8/86 in accordance with Revision Checklist 17P; 7 Del. C. §6305(a) and 6307.

- (3) Interim status terminates for incinerator facilities by 11/8/89 unless the owner/operator submits a Part B application by 11/8/86 as indicated in Revision Checklist 17 P.

[Federal Authority: RCRA §3005(c)(2)(C); 40 CFR 270.73(e) as amended July 15, 1985 (50 FR 28702).]



Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.73(f) as amended 5/8/86 in accordance with Revision Checklist 17P; 7 Del. C. §6305(a) and 6307.

- (4) Interim status terminates for any facility other than a land disposal or an incineration facility by 11/8/92 unless the owner/operator submits a Part B application by 11/8/88 as indicated in Revision Checklist 17P.

[Federal Authority: RCRA §3005(c)(2)(C); 40 CFR 270.73(f) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.73(g) as adopted 5/8/86 in accordance with Revision Checklist 17 P; 7 Del. C. §6305(a) and 6307.

E. State statutes and regulations allow facilities to qualify for interim status if they (1) are in existence on the effective date of statutory or regulatory changes that render the facility subject to the requirement to have a permit and (2) comply with §270.70(a) as indicated in Revision Checklist 17P.

[Federal Authority: RCRA §3005(e); 40 CFR 270.70(a) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.70(a) as adopted 5/8/86 in accordance with Revision Checklist 17P; 7 Del. C. §6305(a) and 6307.

F. State statutes and regulations provide that facilities may not qualify for interim status under the State's analogue to Section 3005(e) if they were previously denied a Section 3005(c) permit or if authority to operate the facility has been terminated as indicated in Revision Checklist 17P.

[Federal Authority: RCRA §3005(c)(3); 40 CFR 270.70(c) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.70(c) as adopted 5/8/86 in accordance with Revision Checklist 17P; 7 Del. C. §6305(a) and 6307.

G. State statutes and regulations allow the issuance of a one-year research development, and demonstration permit (renewable 3 times) for any hazardous waste treatment facility which



proposes an innovative and experimental hazardous waste treatment technology or process not yet regulated as indicated in Revision Checklist 17 Q. If adopted, however, the State must require the facility to meet RCRA's financial responsibility and public participation requirements and retain authority to terminate experimental activity if necessary to protect health or the environment.

[Federal Authority: RCRA §3005(g); 40 CFR 270.65 as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW §122.65 as adopted 5/8/86 in accordance with Revision Checklist 17Q; 7 Del. C. §6305(a) and 6307.

H. Reserved

I. Reserved

J. Facility owners or operators are given the opportunity to cure deficient Part A applications in accordance with 40 CFR 270.70(b) before failing to qualify for interim status as indicated in Revision Checklist 6.

[Federal Authority: RCRA §3005; 40 CFR Part 270 as amended April 24, 1984 (49 FR 17716).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

The State has chosen not to adopt Checklist 6. The State is more stringent than the Federal program by taking immediate enforcement action upon determination that an owner or operator has failed to qualify for interim status.

K. Reserved

L. Reserved

M. Reserved

N. Reserved

O. State statutes and regulations require that all owners and operators of units that treat, store, or dispose of hazardous waste in miscellaneous units must comply with the general application requirements (including Part A permit requirements), the Part B general application requirements of §270.14, and specific Part B information requirements for miscellaneous units as indicated in Revision Checklist 45 and Revision Checklist 59.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.600, 270.14 and 270.23 as amended December 10, 1987 (52 FR 46946) and January 9, 1989 (54 FR 615).]

Citation of Laws and Regulations; Date of Enactment and Adoption.

Remarks of the Attorney General.

DRGHW §§264.600, 122.14 and 122.23 as adopted 8/10/90 in accordance with Revision Checklists 45 and 59; 7 Del. C. §§6305(a).

P. State statutes and regulations provide owners and operators more flexibility to change specified permit conditions, to expand public notification and participation opportunities, and allow for expedited approval if no public concern exists for a proposed permit modification. Owner/operator permit modifications are categorized into three classes with administrative procedures for approving modifications established in each class. These changes are as indicated in Revision Checklist 54.

[Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 124, 264, 265, and 270 as amended September 28, 1988 (53 FR 37912) and October 24, 1988 (53 FR 41649).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW Parts 124, 264, 265, and 122 as adopted 8/10/90 in accordance with Revision Checklist 54; 7 Del. C. §§6305(a) and 6307.

Q. State statutes and regulations make it clear that existing incinerator facilities must either conduct a trial burn or submit other information as specified in 270.19(a) or (c) before a permit can be issued for that facility as indicated in Revision Checklist 60.

[Federal Authority: RCRA §3005(b); 40 CFR 270 as amended January 30, 1989 [54 FR 4286).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW Part 122 as adopted 8/10/90 in accordance with Revision Checklist 60; 7 Del. C. §§6305(a) and 6307.

R. State statutes and regulations allow greater flexibility to interim status facilities to make changes during interim status following director approval as indicated in Revision Checklist 61.

[Federal Authority: RCRA §§2002(a), 3004, 3005, 3006; 40 CFR 270.72 as amended March 7, 1989 (54 FR 9596).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.72 as adopted 6/19/92 in accordance with Revision Checklist 61; 7 Del. C. §§6305(a)(3) and 6307.

S. State statutes and regulations lift the reconstruction limit for changes: 1) to certain interim status units necessary to comply with Federal, State, or local requirements, 2) necessary to allow continued handling of newly listed or identified hazardous waste, 3) made in accordance with an approved closure plan, and 4) made pursuant to a corrective action order as indicated in Revision Checklist 61.

Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 270.72 as amended March 7, 1989 (54 FR 9596).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW §122.72 as adopted 6/19/92 in accordance with Revision Checklist 61; 7 Del. C. §§6305(a)(3) and 6307.

T. State statutes and regulations that clarify that a permit can be denied for the active life of a facility while a decision on post closure permitting is pending as indicated in Revision Checklist 61.

Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 124.1, 124.15, 124.19, 270.1, 270.10 and 270.29 as amended March 7, 1989 (54 FR 9596).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW §§124.1, 124.15, 122.1, 122.10 and 122.29 as adopted 6/19/92 in accordance with Revision Checklist 61; 7 Del. C. §§6305(a) and 6307. The State has chosen not to adopt §124.19

U. State statutes and regulations that classify as Class 1 certain permit modifications requested by owners/operators necessary to enable permitted facilities to comply with the land disposal restrictions as indicated in Revision Checklist 61. Specifically these modifications include 1) adding restricted wastes treated to meet applicable 268 treatment standards or adding residues from treating "soft hammer" wastes, 2) adding certain wastewater treatment residues and incinerator ash, 3) adding new wastes for treatment in tanks or containers under certain limited conditions, and 4) adding new treatment processes, necessary to treat restricted wastes to meet treatment standards, that take place in tanks or containers.

[Federal Authority: RCRA §§2002(a), 3004, 3005 and 3006; 40 CFR 270.42 as amended March 7, 1989 (54 FR 9596).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.42 as adopted 6/19/92 in accordance with Revision Checklist 61; 7 Del. C. §§6305(a)(3) and 6307.

XVII. MINIMUM TECHNOLOGICAL REQUIREMENTS

A. Reserved

B. Reserved

## XVIII. EXPOSURE ASSESSMENTS

A. State laws and regulations require permit applicants for landfills or surface impoundments to submit exposure information as indicated in Revision Checklist 17 S.

[Federal Authority: RCRA §3019(a); 40 CFR 270.10(j) as amended July 15, 1985 (50 FR 28702).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §122.10(c) and (j) as amended 5/8/86 in accordance with Revision Checklist 17S; 7 Del. C. §§ 6304, 6305(a)(3) and 6307.

B. State laws and regulations allow the State to make assessment information available to the Agency for Toxic Substances and Disease Registry. (See CERCLA §104(i).]

[Federal Authority: RCRA §3019(b).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW Hazardous Waste Disclosure Regulations as adopted 8/29/88; 7 Del. C. §6304.

## XIX. AVAILABILITY OF INFORMATION

A. State statutes and regulations provide that:

- (1) All records shall be available to the public unless they are exempt from the disclosure requirements of the Federal FOIA, 5 U.S.C. 552;
- (2) All nonexempt records will be available to the public upon request regardless of whether any justification or need for such records has been shown by the requestor;
- (3) The same types of records would be available to the public from the State as would be available from EPA. The State does not have any statutory provision that would make information unavailable which would be available under the Federal program. The definition of "record" includes those records preserved in a form which must be translated or deciphered by machine in order to be intelligible by humans.; and
- (4) Information is provided to the public in substantially the same manner as EPA as indicated in 40 CFR Part 2 and the Revision Checklist in Appendix N of the revised SCRAM.

- (5) The State statutes and regulations protect Confidential Business Information (CBI) to the same degree as indicated in 40 CFR Part 2 and the Revision Checklist in Appendix N of the revised SCRAM.

[Federal Authority: RCRA §3006(f); 40 CFR §271.17(c).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW Hazardous Waste Disclosure Regulations as adopted 8/29/88; 7 Del. C. §6304(c); 29 Del. C. §10005(b).

Delaware created the Hazardous Waste Disclosure Regulations to be consistent with 40 CFR Part 2 in all matters including the right of appeal and appeal procedures. As described in 29 Del. C. §10005(b) any citizen denied access to public records subject to the Freedom of Information Act may bring suit in a court of competent jurisdiction. The citizen who has been denied access, depending on the remedy sought, may bring suit in either the Delaware Superior Court or Court of Chancery. The only limitation is that the suit must be filed within 60 days of the initial denial and within the county in which the public body ordinarily meets or in which the plaintiff resides.

## **XX. BURNING OF WASTE FUEL AND USED OIL FUEL IN BOILERS AND INDUSTRIAL FURNACES**

A. State statutes and regulations contain the following requirements regarding the burning of waste fuel and used oil fuel for energy recovery in boilers and industrial furnaces as indicated in Revision Checklist 19:

- (1) Waste fuels and used oil fuels are identified as solid wastes so as to encompass all such wastes controlled under 40 CFR 261.3, 261.5 and 261.6.
- (2) Special management standards for generators, transporters, marketers and burners of hazardous waste and used oil burned for energy, as provided in 40 CFR 264.340, 265.340, 266.30-35 and 266.40-44.

[Federal Authority: RCRA §§3001, 3004, 3014(a); 40 CFR 261, 264, 265 and 266 as amended November 29, 1985 (50 FR 49164), November 19, 1986 (51 FR 41900) and April 13, 1987 (52 FR 11819).]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

DRGHW §§261.3, 261.5, 261.6, 264.340, 265.340, 266.30-35, 266.40-44 as adopted 11/21/85 and amended 8/29/88 in accordance with Revision Checklist 19; 7 Del. C. §§6305(a) and 6307.

B. State statutes and regulations provide the authority to obtain criminal penalties for violations of the waste fuel and used oil fuel requirements, as provided in 40 CFR 266.40-44.

[Federal Authority: RCRA §§3006(h), 3008(d), 3014; 40 CFR 271.16.]

Citation of Laws and Regulations; Date of Enactment and Adoption.  
Remarks of the Attorney General.

7 Del. C. §6309(f) through (n).

**XXI. LAND DISPOSAL RESTRICTIONS**

A. Reserved

B. Reserved

C. Reserved

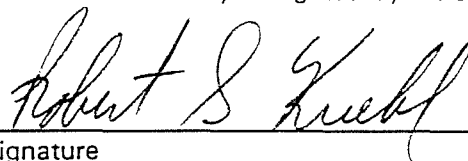
D. Reserved

E. Reserved

**XXII. MEMORANDUM OF AGREEMENT (MOA)**

The State uses the MOA to satisfy certain Federal procedural requirements. The State has the authority to enter into and carry out the agreement, and no applicable State statute (including the State Administrative Procedure Act) requires that the procedure be promulgated as a rule in order to be binding.

The undersigned executes this Attorney General's Statement on authority delegated by M. Jane Brady, Attorney General of the State of Delaware.



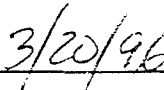
Signature

Robert S. Kuehl

Name (Type or Print)

Deputy Attorney General

Title



Date